

Court File No. 31-2822741
Estate No. 31-2822741

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

*IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
TOBMAR INVESTMENTS INTERNATIONAL INC. OF THE CITY OF TORONTO IN
THE PROVINCE OF ONTARIO*

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Item	Amount
Cash	\$13,885.47
Prepaid Expenses	\$NIL
Other Current Assets	\$NIL
Accounts Receivable	\$285,093.84

32. As at April 19, 2022, the principal liabilities of Tobmar Investments consisted of the following:

Item	Amount
Accrued Lease Obligations (in Accounts Payable)	\$312,297.64
Estimated Lease Obligations (not on Balance Sheet)	\$980,212.68
Trade Creditors	\$45,777.54
TD Bank	\$3,977,136.35
The Peninsula Fund VI Limited Partnership	\$18,351,017.00

33. The Corporations' secured creditors include TD and The Peninsula Fund VI Limited Partnership ("**Peninsula**") – a Delaware limited partnership which holds an indirect interest in Tobmar PM USA and, through it, in the Corporations. Peninsula is also the Corporations' single largest creditor.

34. Attached hereto as **Exhibit "F"** are copies of the *Personal Property Security Act* searches in respect of the Corporations.

C. FORMULATING THE PROPOSALS

(i) Due Diligence and Efforts by the Corporations

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35. The Corporations have acted and continue to act with due diligence and are taking the steps necessary in order to formulate proposals to their creditors in respect of the NOIs (the “**Proposals**”).

36. The process of formulating the Proposals entails a rigorous review of the sales and obligations of each franchisee location in relation to the Corporations’ corresponding obligations under the respective leases and obligations to other creditors with a view to determining which Gateway Stores locations may be viable and under what conditions. This analysis is a critical step as it would enable the Corporations to reorganize and streamline operations by disclaiming the leases and franchise agreements for those locations that are not expected to be viable on a go forward basis, thus improving the likelihood of the Proposals being successful.

37. Given the fact that there are approximately 150 separate individually owned franchise locations in the System, it is expected that this process will take more than 30 days from the date of the filing of the NOIs.

38. Additional time will also be required to permit the Corporations to enter into informal discussions with landlords, including the TTC, as well as other creditors, and discuss the potential terms of the Proposals and gauge their respective willingness to accept them.

39. Although the situation remains fluid, at this point it is expected that a 45-day extension of the period within which the Proposals must be filed will allow sufficient time for the Corporations to complete these steps and formulate viable Proposals.

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(ii) No Material Prejudice to Creditors

40. The requested extension of time would, if granted, preserve the status quo, including the stay of proceedings triggered by the NOIs, for an additional period of 45 days during which, to my knowledge, no creditor would be materially prejudiced.

41. Based on my discussions with Daryl Coelho, a representative of TD, which is a secured creditor of the Corporations, I understand that TD does not oppose the request to extend the period for filing the Proposals.

42. Further, based on my discussions with Ty Clutterbuck ("**Mr. Clutterbuck**"), a representative of Peninsula, I understand that Peninsula is also not opposed to the request for extension of the time for filing the Proposals.

43. Furthermore, if the extension sought is not granted, the Corporations will likely be unable to make viable Proposals to their creditors and become bankrupt. In such circumstances, secured creditors are unlikely to be fully paid, there will be no recovery for unsecured creditors and the viability of the independently owned and operated franchised businesses will be put at risk.

44. Based on my discussions with Joe Albert ("**Mr. Albert**") of the Proposal Trustee, and my review of the draft First Report of the Proposal Trustee, I understand that the Proposal Trustee is supportive of the request for extension of the time for filing the Proposals.

D. ADMINISTRATIVE CONSOLIDATION

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45. The Corporations' business and affairs are operationally interrelated and, consequently, so are the NOIs and the respective proceedings thereunder. The Corporations also share common ownership, management and the same Proposal Trustee.

46. Given the close links among the corporations and the NOI proceedings, it is likely that if further relief is required, it would be sought by all three Corporations.

47. In the circumstances, the administrative consolidation of the NOI proceedings for procedural purposes only would reduce administrative complexity and duplication of efforts in aid of pursuing the most economical and expeditious means for determination of the proceedings in question on their merits.

E. ADMINISTRATIVE CHARGE

48. During these proceedings, the Corporations will require the continued services of the Proposal Trustee. The cost of the NOIs proceedings, including the Proposal Trustee's and other professional fees are being funded, in part, by Peninsula which, based on my discussions with Mr. Clutterbuck, I understand has provided a limited retainer to the Proposal Trustee.

49. Based on my discussions with Mr. Albert, I believe that the Proposal Trustee's fees, including its fees as Trustee in Bankruptcy in the event that one or more of the Corporations become bankrupt, may exceed the amount of Peninsula's funding. Accordingly, I believe that a first priority charge on all of the Corporations' assets, property

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and undertaking in the amount of \$200,000.00 in favour of the Proposal Trustee and its counsel is appropriate and reasonable in the circumstances.

50. I make this Affidavit in support of the Corporations' motions for an extension of the time for filing the Proposals.

SWORN by Mary Kelly in the City of Toronto, in the Province of Ontario, before me at the City of Mississauga, in the Regional Municipality of Peel, in the Province of Ontario, on May 2, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits
(or as may be)
NEDKO M. PETKOV


MARY KELLY

This is Exhibit “ A ” referred to in the Affidavit of Mary Kelly sworn before me at the City of Mississauga, in the Province of Ontario, on May 2, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

NEDKO PETKOV

Tobmar Investments Inc.

FINANCIAL STATEMENTS

December 31, 2019



Galloway Consulting Group Inc.
488 University Ave. Suite 4816
Toronto, ON M5G 0C1

Notice to Reader

On the basis of information provided by management, I have compiled the balance sheet of Tobmar Investments Inc. as at December 31, 2019 and the statement of operations and (deficit) retained earnings for the year then ended.

I have not performed an audit or review engagement in respect of these financial statements and, accordingly, do not express any assurance thereon.

Readers are cautioned that these statements may not be appropriate for their purposes.

William Galloway

William Galloway, CPA, CMA
November 22, 2020

Tobmar Investments Inc.
Balance Sheet (Unaudited)

As at December 31, 2019 (in Canadian dollars)	2019	2018
	\$	\$
Assets		
Current assets		
Cash	-	1,102
Accounts and rents receivable	33,207	5,536
HST/QST recoverable	41,605	20,408
	74,812	27,046
Property, plant and equipment	40	41
Rent deposits	7,278	7,278
	82,130	34,365
Liabilities		
Current liabilities		
Bank indebtedness	11,468	-
Accounts payable and accrued liabilities	17,282	85,844
Security deposits	8,458	3,750
	37,208	89,594
Due to affiliated entities	1,333,145	612,044
	1,370,353	701,638
Shareholder's deficiency		
Capital stock	5	5
Deficit	(1,288,228)	(667,278)
	(1,288,223)	(667,273)
	82,130	34,365

Tobmar Investments Inc.
Statement of operations and deficit (Unaudited)

For the Year Ended December 31, 2019 (in Canadian dollars)	2019	2018
	\$	\$
Revenue	677,157	994,304
Cost of sales	1,175,229	1,189,447
	(498,072)	(195,143)
Expenses		
Selling, general and administrative	60,593	121,425
Other expenses	62,285	64,623
	122,878	186,048
Loss before income taxes	(620,950)	(381,191)
Income taxes	-	-
Net loss	(620,950)	(381,191)
Deficit, beginning of year	(667,278)	(286,087)
Deficit, end of year	(1,288,228)	(667,278)

Tobmar Investments International Inc.

FINANCIAL STATEMENTS

December 31, 2019



Galloway Consulting Group Inc.
488 University Ave. Suite 4816
Toronto, ON M5G 0C1

Notice to Reader

On the basis of information provided by management, I have compiled the balance sheet of Tobmar Investments International Inc. as at December 31, 2019 and the statement of operations and (deficit) retained earnings for the year then ended.

I have not performed an audit or review engagement in respect of these financial statements and, accordingly, do not express any assurance thereon.

Readers are cautioned that these statements may not be appropriate for their purposes.

William Galloway

William Galloway, CPA, CMA
November 22, 2020

Tobmar Investments International Inc.
Balance Sheet (Unaudited)

As at December 31, 2019 (in Canadian dollars)	2019	2018
	\$	\$
Assets		
Current assets		
Cash	22,748	21,351
Accounts and rents receivable	102,106	37,610
HST/QST recoverable	21,616	15,182
	<u>146,470</u>	<u>74,143</u>
Rent deposits	57,980	59,819
Due from affiliated entities	65,974	44,336
Goodwill	339,991	339,991
	<u>610,415</u>	<u>518,289</u>
Liabilities		
Current liabilities		
Bank indebtedness	-	-
Accounts payable and accrued liabilities	7,116	54,083
Income tax payable	-	8,317
	<u>7,116</u>	<u>62,400</u>
Due to affiliated entities	1,405,875	553,683
Security deposits	112,581	112,581
	<u>1,525,572</u>	<u>728,664</u>
Shareholder's deficiency		
Capital stock	10	10
(Deficit) Retained earnings	(915,167)	(210,385)
	<u>(915,157)</u>	<u>(210,375)</u>
	<u>610,415</u>	<u>518,289</u>

Tobmar Investments International Inc.
Statement of operations and deficit (Unaudited)

For the Year Ended December 31, 2019 (in Canadian dollars)	2019	2018
	\$	\$
Revenue	2,980,162	2,974,322
Cost of sales	3,610,757	3,246,594
	(630,595)	(272,272)
Expenses		
Selling, general and administrative	74,187	45,768
Other expenses	-	1,186
	74,187	46,954
Loss before income taxes	(704,782)	(319,226)
Income tax provision	-	-
Net loss	(704,782)	(319,226)
Retained earnings, beginning of year	(210,385)	108,841
(Deficit) Retained earnings, end of year	(915,167)	(210,385)

Non-consolidated financial
statements of
Tobmar Newstands Inc.

December 31, 2019

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Independent Practitioner's Review Engagement Report

To the Shareholders of
Tobmar Newstands Inc.

We have reviewed the accompanying non-consolidated financial statements of Tobmar Newstands Inc. (the "Company") that comprise the non-consolidated balance sheet as at December 31, 2019, and non-consolidated statements of operations, changes in shareholders' deficiency and cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

Management's Responsibility for the Non-consolidated Financial Statements

Management is responsible for the preparation and fair presentation of these non-consolidated financial statements in accordance with Canadian accounting standards for private enterprises, and for such internal control as management determines is necessary to enable the preparation of non-consolidated financial statements that are free from material misstatement, whether due to fraud or error.

Practitioner's Responsibility

Our responsibility is to express a conclusion on the accompanying non-consolidated financial statements based on our review. We conducted our review in accordance with Canadian generally accepted standards for review engagements, which require us to comply with relevant ethical requirements.

A review of financial statements in accordance with Canadian generally accepted standards for review engagements is a limited assurance engagement. The practitioner performs procedures, primarily consisting of making inquiries of management and others within the entity, as appropriate, and applying analytical procedures, and evaluates the evidence obtained.

The procedures performed in a review are substantially less in extent than, and vary in nature from, those performed in an audit conducted in accordance with Canadian generally accepted auditing standards. Accordingly, we do not express an audit opinion on these non-consolidated financial statements.

Emphasis of Matter

Without qualifying our conclusion, we draw attention to Note 13 in the non-consolidated financial statements, which indicates that the Company incurred a net loss of \$5,088,532 during the year ended December 31, 2019 and, as of that date, the Company's current liabilities exceeded its total assets by \$3,188,768. These conditions, along with other matters as set forth in Note 13, indicate the existence of a material uncertainty that may cast significant doubt about the Company's ability to continue as a going concern.

